

RESOLUTION NO. 4259

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER, RESCINDING RESOLUTION NO 4193 AND ADOPTING ADMINISTRATIVE RULES AND REGULATIONS FOR THE CITY WATER SYSTEM PURSUANT TO THE MUNICIPAL CODE

THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER DO HEREBY RESOLVE AS FOLLOWS:

The water rate structure of the City of Westminster is hereby revised as follows:

SECTION 1. WATER RATES AND CHARGES FOR WATER SERVICES

Except as otherwise provided, pursuant to Westminster Municipal Code 13.08.160, all water rates, charges, surcharges, rules and regulations, shall be set by the Mayor and City Council by separate resolution. The rates, charges, surcharges, rules and regulations provided in this section shall be effective September 17, 2009, for all water billings from that date forward. Each water service bill shall consist of a fixed customer charge and a variable water commodity charge.

A. FIXED CUSTOMER CHARGE. The fixed customer charge per account shall be the sum of the service charge plus the meter charge.

(1) Service Charge. The service charge for fiscal year 2009/2010 shall be at a rate of \$5.78 bi-monthly for each and every customer account. Beginning fiscal year 2010/2011, the service charge shall be at a rate of \$6.52 bi-monthly for each and every customer account.

(2) Meter Charge. The meter charge shall be at a rate defined by the size of the water meter, as detailed in Chart "A".

CHART "A"

METER SIZE

BI-MONTHLY METER RATE

	<u>FY 2009/2010</u>	<u>FY 2010/2011</u>
5/8" - 3/4"	\$6.48	\$7.32
1"	\$16.21	\$18.29
1-1/2"	\$32.42	\$36.58
2"	\$51.86	\$58.53
3"	\$103.73	\$117.06
4"	\$162.08	\$182.90
6"	\$324.15	\$365.80

8"	\$518.64	\$585.28
10"	\$745.55	\$841.34
12"	\$1,004.87	\$1,133.98

The fixed customer charge shall be subject to adjustment as provided in Section D (2).

B. VARIABLE WATER COMMODITY CHARGE. The variable water commodity charge shall be based upon the volume of water consumed, as measured by metering or as calculated by the City Engineer. The commodity rate for water service shall be charged per 100 cubic feet (CCF) of water.

(1) Single Family Dwellings. For single family dwelling residential customers as defined in Westminster Municipal Code Section 17.04.190, the water commodity rate shall be as detailed in Chart "B-1".

CHART "B-1"

Usage Level	Bi-monthly Usage (CCF)	Unit Rate (\$ per CCF)	
		<u>FY 2009/10</u>	<u>FY2010/11</u>
Tier 1	1-28	\$1.97	\$2.25
Tier 2	29 or over	\$3.26	\$3.56

(2) Multi-Unit Family Dwellings. For multi-unit family dwelling residential customers as defined in Westminster Municipal Code Section 17.04.180 and 17.04.200, the water commodity rate shall be as detailed in Chart "B-2".

CHART "B-2"

Usage Level	Bi-monthly Usage (CCF)	Unit Rate (\$ per CCF)	
		<u>FY 2009/10</u>	<u>FY2010/11</u>
	<u>(Per dwelling unit)</u>		
Tier 1	1-18	\$1.96	\$2.24
Tier 2	19 or over	\$2.76	\$3.05

(3) Hotels/Motels. For hotels and motels, as defined in the Westminster Municipal Code, the water commodity rate shall be as detailed in Chart "B-3".

CHART "B-3"

<u>Usage Level</u>	<u>Bi-monthly Usage (CCF)</u>	<u>Unit Rate (\$ per CCF)</u>	
	<u>(Per room)</u>	<u>FY 2009/10</u>	<u>FY2010/11</u>
Tier 1	1-8	\$1.96	\$2.24
Tier 2	9 or over	\$2.73	\$3.02

(4) Commercial/industrial. For commercial, industrial and other customers the water commodity rate shall be as detailed in Chart "B-4".

CHART "B-4"

<u>Usage Level</u>	<u>Bi-monthly Usage (CCF)</u>	<u>Unit Rate (\$ per CCF)</u>	
		<u>FY 2009/10</u>	<u>FY2010/11</u>
Tier 1	See below	\$2.00	\$2.28
Tier 2	See below	\$2.80	\$3.10

<u>Description</u>	<u>FY 2009/10</u>	<u>FY 2010/11</u>
Commercial Low		
Block 1 Rate per ccf (0-45 ccf)	\$ 2.00	\$ 2.28
Block 2 Rate per ccf (46+ ccf)	\$ 2.80	\$ 3.10
Commercial Moderate		
Block 1 Rate per ccf (0-135 ccf)	\$ 2.00	\$ 2.28
Block 2 Rate per ccf (136+ ccf)	\$ 2.80	\$ 3.10
Commercial High		
Block 1 Rate per ccf (0-4240 ccf)	\$ 2.00	\$ 2.28
Block 2 Rate per ccf (4241+ ccf)	\$ 2.80	\$ 3.10

For purposes of this section the following definitions shall apply:

- a. "Commercial Industrial Low" means a commercial/industrial account with an average bi-monthly consumption of 0 to 70 ccf.
- b. "Commercial Moderate" means a commercial/industrial account with an average bi-monthly consumption of 71 to 203 ccf.
- c. "Commercial High" means a commercial/industrial account with an average bi-monthly consumption of over 204 ccf.

(5) Irrigation. For irrigation meter customers, as defined by Westminster Municipal Code, the water commodity rate shall be as detailed in Chart "B-5".

CHART "B-5"

Usage Level	Bi-monthly Usage (CCF)	Unit Rate (\$ per CCF)	
		FY 2009/10	FY2010/11
Tier 1	See below	\$2.01	\$2.29
Tier 2	See below	\$2.78	\$3.08

Description	FY 2009/10	FY 2010/11
5/8" - 3/4" Meters		
Block 1 Rate per ccf (0-73 ccf)	\$ 2.01	\$ 2.29
Block 2 Rate per ccf (74+ ccf)	\$ 2.78	\$ 3.08
1" Meters		
Block 1 Rate per ccf (0-92 ccf)	\$ 2.01	\$ 2.29
Block 2 Rate per ccf (93+ ccf)	\$ 2.78	\$ 3.08
1 1/2" Meters		
Block 1 Rate per ccf (0-166 ccf)	\$ 2.01	\$ 2.29
Block 2 Rate per ccf (167+ ccf)	\$ 2.78	\$ 3.08
2" Meters		
Block 1 Rate per ccf (0-247 ccf)	\$ 2.01	\$ 2.29
Block 2 Rate per ccf (248+ ccf)	\$ 2.78	\$ 3.08
3" Meters		
Block 1 Rate per ccf (0-635 ccf)	\$ 2.01	\$ 2.29
Block 2 Rate per ccf (636+ ccf)	\$ 2.78	\$ 3.08
4" Meters		
Block 1 Rate per ccf (0-1124 ccf)	\$ 2.01	\$ 2.29
Block 2 Rate per ccf (1125+ ccf)	\$ 2.78	\$ 3.08

C. OUTSIDE CITY SURCHARGE. For customers serviced outside the City, an outside City surcharge of 13% will be applied to the rates and charges.

D. RATE SETTING AND ADJUSTMENTS.

(1) Rate Setting. Rates, charges and surcharges shall be set and

modified by the Mayor and City Council, from time to time, following a properly noticed public hearing. Once established, rates, charges, and surcharges shall remain in effect, subject to the automatic adjustments provided herein, until they are further modified by formal action of the City Council.

- (2) Automatic Rate Adjustments. Section 53756 of the Government Code permits City to adopt a rate schedule which provides for automatic adjustments to pass along increases or decreases in wholesale water charges and increased operating costs based on the Consumer Price Index. Pursuant to section 53756, the Mayor and City Council hereby authorize the following automatic adjustments to the fixed customer charge and the variable water commodity charge.

(a) Wholesale Water Cost Adjustments. City reserves the right to automatically pass along future increases or decreases in wholesale water charges imposed on City by another agency. These automatic adjustments may be made whenever the other agency: (1) increases the standard wholesale cost of water beyond, or decreases the standard wholesale cost of water below, the current wholesale cost assumed by City in the proposed rate structure described in this resolution, or, (2) imposes "penalties" or "surcharges" triggered when City's total water use exceeds the water supply allocation imposed on City by the other agency.

(b) Inflation Adjustments. At the beginning of fiscal year 2011/2012, fiscal year 2012/2013 and fiscal year 2013/2014, the City's fixed customer charges, together with any variable water commodity charges which are not already subject to pass through adjustments under paragraph 2(a) above, shall be automatically adjusted by the percentage rate increase in the Consumer Price Index – All Urban Consumers – All Items, for the Los Angeles-Riverside-Orange County region.

(c) No adjustment described in this section shall be valid until at least 30-days notice has been provided to the rate payers pursuant to Government Code section 53755(a) or its successor.

(d) Subject to the restrictions in this section, the right to make adjustments shall begin on the effective date of this resolution and continue through the end of fiscal year 2013/2014.

- (3) Any penalties provided for in any emergency water management plan adopted by the Mayor and City Council shall not affect the basic rate.
- (4) So long as debt financing remains outstanding with a lien on net revenue of the utility, authorized adjustments shall also include rate increases adequate to maintain the following:
 - (a) "Net revenue" as required by debt instrument;
 - (b) One year operating reserve;
 - (c) Reasonable capital replacement reserve;
 - (d) Rate stabilization reserve; and
 - (e) Payments associated with investor-owned utilities, such as franchise fees and property taxes assessed at full value of land and improvements

SECTION 2. SPECIAL APPLICATIONS

- A. **ADJUSTMENTS FOLLOWING A DISPUTE.** In order to assure equity, and after investigation of the facts relating to a dispute of the charges by any consumer, the Finance Director is authorized to adjust and grant rebates from rates and charges herein, provided the Finance Director determines that such adjustment is reasonable and justified.
- B. **SELF SUPPORTING.** The water system is intended to be a fully self-supporting "Enterprise Fund" operated by the City. "Fully self-supporting" is intended to mean that fees and charges will be set to recover all authorized and budgeted costs, including:
 - 1. Water purchase and pumping costs;
 - 2. Utility costs required to operate the utility;
 - 3. Personnel costs associated with Water Enterprise staff;
 - 4. Prorated costs associated with the City's insurance, maintenance, equipment repair and replacement, as well as costs for maintaining and replacing the City's computer system.
 - 5. Personnel costs associated with General Fund staff assigned to provide water system support services, prorated to time spent in support of water activities;
 - 6. General administrative charges by the City, not to exceed 10% of utility revenue;
 - 7. Charges assessed to investor-owned utilities at rates not to

- exceed those charged to investor-owned utilities;
- 8. Depreciation costs;
- 9. Reasonable capital replacement reserve;
- 10. Rate stabilization fund;
- 11. Any covenants and conditions associated with public financing(s) as may be necessary to maintain and improve the water system;
- 12. Accrued charges for General Fund services not paid in the budget year assessed; and
- 13. Other costs and services directly associated with utility operation and adopted by the Mayor and City Council.

C. **ACCRUED CHARGES.** General Fund charges for personnel and administrative costs, as well as charges assessed in lieu of taxes otherwise paid by investor-owned utilities shall, to the extent possible, be paid in the budget year assessed. In the event the Finance Director determines that financial circumstances limit or prohibit such payments, any balance remaining unpaid at year end shall be recorded as an obligation of the Water Fund, to be repaid, along with interest accrued at the City's cost of funds, at a future time which, in the opinion of the Finance Director, is more financially reasonable.

D. **VACANCIES.** In case a unit served by a meter becomes vacant, the regular minimum billing charge shall be charged and collected from the owner thereof, whether water is used or not, unless the Water Division is requested to cut off the water service there from.

E. **BILLING ESTIMATES FOR METER FAILURE.** If a meter fails to register during any period, or is known to register inaccurately, the City may estimate the water charge by using an average daily consumption according to the season as shown by the meter when in use and registering accurately or, if there are no accurate records on file, a reasonable estimate.

F. **METER TEST AS CONSUMER REQUEST.** If a consumer requests a meter test in accordance with Westminster Municipal Code Section 13.08.070, the City may require a \$145 deposit. Such deposit will be refunded if the meter proves inaccurate beyond a 5% tolerance rate.

G. **TEMPORARY SERVICE.** Application shall be made to the Water Division for any temporary service for water from lines, hydrants or water stands, and shall be granted only to applicants holding a valid City business license. Installation, removal and deposit fees shall be charged in accordance with the current City Schedule of Fees and Charges for Hydrant Meter Rental. Water usage billing for such services shall be charged at the rate of 100% of the variable water commodity charge per one hundred (100) cubic feet as set forth in Section 1B of this resolution, plus the fixed customer charge. The

Finance Director, in consultation with the Water Division, shall determine the proper category for the variable water commodity charge based on the intended use. If, in the determination of the Water Division, the setting of a meter is impractical or uneconomical for the supply of water, a reasonable estimate of the water to be used shall be made by the Water Division, and that amount will be used for purposes of billing. The water commodity charge for temporary water service shall be the same rate as the Tier 1 rate presented in Chart B-4 of this resolution regardless of the amount of water consumed for temporary service. Each customer of temporary water service shall be charged the fixed customer charge found in Section 1A of this resolution in the same manner as all other customers based on the temporary water user's meter size.

- H. **DAMAGE.** Except as determined by the Finance Director, the customer of record shall be liable for any damage to a meter, including the breakage or destruction of locks, glass, curb stops or other property of the City water system. The property owner shall be responsible for damages in the event the customer is a tenant and does not reimburse the City for damages. Water service shall be discontinued until the City is reimbursed in full for all damages and costs associated with collection of damages.
- I. **SECOND READINGS.** A separate charge may be assessed to the next billing for customers requesting second readings, or rereads, if the original reading is found to be correct. Charges shall be assessed in accordance with the current City Fees and Charges Schedule.
- J. **WATER LINE LOCATION SERVICE.** A separate charge, based upon actual costs, will be assessed for persons requesting that the City locate and mark a water line so that they might make a connection to it for their own construction purposes.
- K. **ANNUAL BACKFLOW INSPECTION.** A separate charge, based upon actual costs, will be assessed for the annual inspection of each registered backflow protection device if the City actually performs the inspection and issues the certification.

SECTION 3. LIFELINE RATE

- A. Notwithstanding any of the rates contained herein, there shall be established a Lifeline rate formula as follows:
- B. Persons who have qualified for exemption from the Utility User's Tax, as defined by the Mayor and City Council, shall automatically qualify for the Lifeline rates as defined herein.
- C. Lifeline customers shall be charged the current applicable tiered

residential water commodity rate for actual water usage. There shall be no fixed customer charge for persons who qualify for the Lifeline rate. This program will be funded from other City sources, and shall not be subsidized by increased rates to any other customer or customer class.

SECTION 4. BILLINGS AND DELINQUENCIES

- A. BILLINGS. Consumers shall be billed on a regular basis but not greater than bi-monthly.
- B. WATER BILLS DATE DUE. All water bills shall be due and payable on the billing date shown on the bill and shall be delinquent at twelve o'clock midnight on the thirtieth (30th) day following the bill date.

Without limiting the City's right to turn off service altogether, a late payment charge, in accordance with the current City Fees and Charges Schedule, shall be assessed against any account remaining unpaid after the 30th day following the bill date.

- C. TURNING ON and OFF WATER. If any water bill remains delinquent thirty-five (35) days following the bill date, the water service shall be turned off forthwith and service shall not be restored until all charges have been paid. Charges shall be assessed in accordance with the current City Fees and Charges Schedule.

- (1) Payment Extensions. In case of hardship, the Finance Director, in his sole discretion, may authorize the restoration of service, an extension of the payment date, or arrange other payment terms and conditions in order to allow service to be restored.

- D. CHANGE OF ADDRESS. New water service shall not be started at any new address until all delinquent charges owing at the former place of residence or business within the City are paid.

- E. NEW ACCOUNT SET-UP CHARGE. Charges shall be in accordance with the current City Schedule of fees and Charges.

- (1) Name change: A separate charge, in accordance with the current City Fees and Charges Schedule, shall be assessed and added to the next regular billing for service transferred from one member of a family to another, or from one roommate to another, or to change the billing name on the account.

- F. RETURNED CHECK CHARGES. A separate charge, in accordance with the current City Fees and Charges Schedule, shall be assessed and added to the account for all checks returned unpaid by the bank.

G. **TERMINATION OF SERVICE.** Charges shall be assessed in accordance with the current City Fees and Charges Schedule.

- (1) **Delinquent:** Unless a customer requests termination of service and closes the account prior to the turn-off for delinquency, the charges provided for herein will be added to the account for collection. If this same customer requests that service be reinstated, the customer shall follow all procedures for a new account turn-on and pay all charges owing on the delinquent account.
- (2) **Additional:** In addition to voluntary and delinquent terminations, the City may also terminate service when, in the City's reasonable opinion, it is determined an account was opened using false information, has another utility or any other unpaid charge owed to the City, or otherwise has misrepresented themselves to the City.
- (3) **Other City Charges.** The City may add charges over sixty (60) days past due from other City accounts and charges to the customer's water account, and terminate water service until all such past-due amounts are paid.

H. **SPECIAL HANDLING BASED ON PAYMENT HISTORY.** Customers with no water service payment delinquencies over the previous six billing periods shall not have service discontinued for a single delinquent water payment. The delinquent amount will still be owed, but shall be carried forward to the next bill.

If a customer's service is discontinued for a delinquent water service payment, once service is restored it shall be necessary for the customer to make six consecutive timely payments before a billing can be carried forward again to the next bill.

SECTION 5. METER AND FIRE CHARGES

The City shall charge and collect, in advance, for each water connection made with its water system in accordance with the adopted fees and charges of the City.

A. **PRIVATE FIRE PROTECTION SERVICE.** The City will assess approved charges to customers served by the Utility for private firelines, used exclusively for fire protection, whether said lines are connected with automatic sprinkling systems or private fire hydrants.

- (1) **Fire Service Installation:** Labor charges shall be in accordance with the current City Fees and Charges Schedule, plus applicable meter and material charges, if any.

Fire Service Usage. The Fire Service Charge for private fire lines shall be the sum of the Customer Charge, Meter Charge and the Variable Water Commodity Charge.

a) The Customer Charge for fire service shall be the same as provided in SECTION 1A. The Meter Charge for fire service shall be the same as provided in SECTION 1A "Chart A".

b) The Variable Water Commodity Charge per CCF for Fire Service shall be as set forth in the chart below. Usage shall be based upon the volume of water consumed, as measured by metering or as calculated by the City Engineer.

Description	FY 2009/10	FY 2010/11
Rate per ccf	\$ 2.00	\$ 2.28

B. CHANGE OF METER LOCATION OR SIZE. Any person desiring to change the location or size of an existing service shall make application to the Water Division. Charges shall be in accordance with the current City Fees and Charges Schedule.

SECTION 6 WATER MAIN INSTALLATION CHARGES UPON CONNECTION

Whenever any person occupying, owning or having an interest in any land adjacent to a street, alley, or easement in which the City has installed or agreed to install a water line to serve said property applies for a service connection, they shall pay to the Water Department of the City, at the time of making said application, a water main installation charge which shall be computed on the basis of the length and size of the main installed in said street, alley or easement abutting or adjacent to said property.

Said water main installation charges, approved in accordance with the current City Fees and Charges Schedule, shall be assessed in addition to the service and meter charges specified elsewhere.

The computation of the footage charges shall be based upon the length of all the boundary lines of said property abutting to/adjacent to said street, alley or easement in which any water main, line or other facility is installed for the transmission or distribution of water.

SECTION 7. INTERPRETATION OF RESOLUTION

At the discretion of the Finance Director and after due investigation of the facts and circumstances, any and all of the above charges may be adjusted or waived to facilitate and preserve the true intent of this resolution.

SECTION 8. GENERAL FUND ADVANCES

The Finance Director is authorized to record all amounts budgeted to be transferred to the General Fund including, but not limited to, direct staffing charges, administrative fees and charges in lieu of franchise and property tax assessments otherwise assessed against investor-owned utilities, which for any reason cannot be transferred to the General Fund within the budgeted year as advances from and owed to the General Fund. These amounts shall be repaid, with interest at the City earnings rate, at a time when, in the opinion of the Finance Director, water fund resources are adequate to repay the General Fund advances.

SECTION 9. REDEVELOPMENT AGENCY ADVANCE


The Finance Director has recorded funds advanced to the City's water utility from the Redevelopment Agency for system improvements, in the amount of \$4 million dollars. These funds will be repaid, along with interest accrued at the City's cost of funds, at a future time. Repayments are scheduled in the budgeted amount of \$400,000 annually, including interest at 4.95%, through fiscal year 2010, with a residual payment of \$148,654 in 2011.

SECTION 10 EFFECTIVE DATE

The rules, regulation, fees and charges set forth in this Resolution are to be effective on September 17, 2009.

PASSED, APPROVED AND ADOPTED this 9th day of September 2009, by the following vote:

AYES: COUNCIL MEMBERS: RICE, TA, FRY
NOES: COUNCIL MEMBERS: QUACH
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: DIEP



Margie L. Rice, Mayor

ATTEST:


Robin Roberts, City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF WESTMINSTER)

I, ROBIN ROBERTS, do hereby certify that I am the duly appointed City Clerk of the City of Westminster, and that the foregoing resolution was duly adopted at a regular meeting of the Mayor and City Council of the City of Westminster held on the 9th day of September 2009.

A handwritten signature in cursive script, appearing to read "Robin Roberts", written over a horizontal line.

Robin Roberts
City Clerk